

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Non-elected claims 17-19 are currently being cancelled without prejudice or disclaimer. Claim 26 is being amended to correct a typo. New claims 39-41 are being added. Claims 1-16, 20-41 are now pending in this application. Support for new claims 39-41 can be found in Figures 3A and 3B and on pages 10-11 and 15-19 of the specification. No new matter was added.

In response to the election of species requirement, applicants elect with traverse species 4 of Figure 3b. Applicants traverse the requirement for the following reason.

Applicants submit that Figures 3a and 3b are directed to the same species. Therefore, species 3 and 4 were improperly identified as being separate species in the Office Action. Specifically, as noted on page 6, lines 8-10 of the specification, Figure 3a is a micrograph of a cantilever while Figure 3b is a sketch of a cantilever. As explained further on page 10, line 11 to page 11, line 11 of the specification, Figures 3a and 3b basically illustrate the same device – a cantilever with a metal piezoresistor. Figure 3a is a micrograph of a cantilever, with the metal thin film piezoresistor shown as a sketch in the inset of Figure 3a. Figure 3b is a sketch of the same cantilever which shows an exemplary location where the metal thin film piezoresistor can be located on the cantilever. Pages 15-19 of the specification provide additional information about the metal thin film piezoresistor. Thus, applicants submit that species 3 and 4 were improperly identified as being separate and actually comprise the same species.

Applicants submit that the pending claims correspond to the identified species as follows:

A) Figure 1 shows a freestanding nanowire sensor - claims 2, 3, 17-19, 24-25 are directed to species 1 of Figure 1.

B) Figure 2 shows interdigitated nanowires - no claims are directed to species 2 of Figure 2.

C) Figures 3a and 3b show a cantilever with a metal thin film piezoresistor - claims 4-6, 11, 20-22, 26-28, 33 and new claims 39-41 are directed to this elected species 4. There is no separate species 3.

D) Figure 16 shows discontinuous metal islands - claims 9 and 31 are directed to this species 5 of Figure 16.

Independent claims 1 and 23 are actually generic to all species since they include within their scope the subject matter of all identified species (i.e., the subject matter shown in Figures 1, 2, 3a, 3b and 16). Likewise, dependent claims 7, 8, 10, 12-16, 29, 30, 32, 34-38 are also generic to all species for the same reason.

Thus, applicants elect species 4 with traverse. Applicants submit that claims 4-6, 11, 20-22, 26-28, 33 and new claims 39-41 are directed to elected species 4 and that claims 1, 7, 8, 10, 12-16, 23, 29, 30, 32 and 34-38 are generic. Thus, applicants request that claims 1, 4-8, 10-16, 20-23, 26-30 and 32-41 be examined on the merits.

Applicants also wanted to bring to the examiner's attention that applicants filed a continuation-in-part application serial number 11/010,578 on 12/14/2004 which claims priority to the present application.

Applicants believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

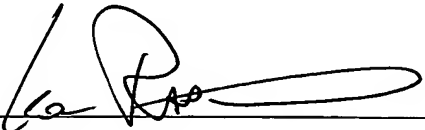
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to

Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 12/13/05

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 945-6090
Facsimile: (202) 672-5399

By 

Leon Radomsky
Attorney for Applicant
Registration No. 43,445